

SECOND REGULAR SESSION

SENATE BILL NO. 922

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time February 8, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4865S.011

AN ACT

To amend chapter 67, RSMo, by adding thereto one new section relating to tax incentives for local job creation projects.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.4000, to read as follows:

67.4000. 1. As used in this section, the following terms mean:

(1) "Base year", the year before the year in which the governing body first holds a public hearing to consider the establishment of a district;

(2) "District", an area designated by a municipality as a Missouri jobs for the future district;

(3) "Eligible project costs", include, but are not limited to, all necessary and incidental expenses related to the issuance of obligations, including reasonable reserves related thereto and interest payments on obligations issued under this section, and reasonable interest on project costs from the time such costs are incurred until such costs are reimbursed. Eligible project costs shall include costs related to:

(a) Formation of a district, drafting a plan, and designing projects, including but not limited to reasonable fees of architects, engineers, attorneys, and consultants, and any other reasonably related costs;

(b) Acquisition of land within the boundaries of the district, including but not limited to associated surveyor costs, title related fees, legal fees, brokers' fees, feasibility studies, and other due diligence;

(c) Extension, expansion, and construction of all infrastructure

22 serving the district, including, but not limited to, water services, storm
23 and sanitary sewers, electrical services, roads, sidewalks, parking, and
24 any other utilities or infrastructure;

25 (d) Developing buildings, including site preparation, design, and
26 building construction;

27 (e) Financing costs; and

28 (f) Any other costs related to attracting private investment and
29 creating new jobs within the district;

30 (4) "MO-JFF revenues", Missouri jobs for the future revenues,
31 which shall include:

32 (a) Half of the incremental increase in the general revenue
33 portion of state sales tax revenues received under section 144.020,
34 excluding sales taxes that are constitutionally dedicated, taxes
35 deposited to the school district trust fund in accordance with section
36 144.701, sales and use taxes on motor vehicles, trailers, boats, and
37 outboard motors, and future sales taxes earmarked by law. The
38 incremental increase in the general revenue portion of state sales tax
39 revenues for a facility that existed within the proposed district before
40 the district was established shall be the amount that current state sales
41 tax revenue exceeds the state sales tax revenue for such facility in the
42 base year, and the incremental increase in the general revenue portion
43 of state sales tax revenues for a business that relocates to the district
44 after the district is established shall be the amount that current state
45 sales tax revenue exceeds the state sales tax revenue for such business
46 in the year before its relocation to the district; and

47 (b) The state income tax withheld on behalf of new employees by
48 the employers under section 143.221, at the businesses located within
49 the district. The state income tax withholding allowed by this section
50 shall be the amount of state income tax withheld by the employers
51 within the district for new employees who fill new jobs created in the
52 district as compared to the base year;

53 (5) "Municipality", a city, village, or incorporated town, or any
54 county of this state, or any two or more of such entities acting together;

55 (6) "Municipal funding", funding or the pledge of funding from
56 municipalities and entities affiliated with municipalities, such as
57 economic development corporations, which may include financial
58 contributions or contributions of real property, infrastructure

59 improvements, or any other in-kind contribution valued for purposes
60 of this subdivision at fair market value, for implementation of the plan,
61 including any infrastructure or other improvements outside the district
62 that directly benefit such district as long as such infrastructure or
63 improvements outside the district were funded during or after the base
64 year, which shall constitute at least ten percent of the amount of
65 eligible project costs, excluding any financing costs, estimated to be
66 financed with MO-JFF revenues;

67 (7) "Obligations", bonds, loans, debentures, notes, special
68 certificates, or other evidences of indebtedness issued by a
69 municipality or development authority to carry out a project or to
70 refund outstanding obligations;

71 (8) "Project", a Missouri jobs for the future project within a
72 district carried out in furtherance of a plan adopted by the
73 municipality;

74 (9) "Project area", the geographic bounds of a project from which
75 Missouri jobs for the future revenues will be collected, as described by
76 a legal description;

77 (10) "Total project costs", the total amount of expenditures, as
78 estimated in the plan, necessary to complete all projects within a
79 district, which shall include all development-related costs within the
80 district that will be financed with MO-JFF revenues or any other public
81 or private funds.

82 2. Subject to the requirements provided under this section, the
83 governing body of a municipality may establish a district in which
84 projects may be implemented according to a plan, by passing one or
85 more ordinances establishing such district and adopting such projects
86 and plan. A governing body of municipality shall not adopt a project
87 before adopting a plan, and shall not adopt a plan before establishing
88 a district. Each plan shall include, but need not be limited to:

89 (1) A description of how the plan will advance one or more
90 targeted industry clusters, as defined by the department of economic
91 development, within the district, and how the program will integrate
92 business, education, science, and technology within the district;

93 (2) A description of the district, including the existing businesses
94 within the district;

95 (3) The estimated total project costs, eligible project costs, and

- 96 the timetable for the projects, including any project phasing;
- 97 (4) A land acquisition strategy;
- 98 (5) The anticipated sources, amounts, and timing of funds to pay
99 eligible project costs and other project costs, including any MO-JFF
100 revenues, municipal funding, or any other sources of funds, including
101 the percentage of all eligible project costs and other project costs
102 represented by each source of funds;
- 103 (6) The anticipated type and term of the obligations to be issued;
- 104 (7) The general land uses proposed within the district;
- 105 (8) Proof of a commitment by at least one Missouri-based higher
106 education institution, including but not limited to universities, colleges,
107 and community colleges, or any recognized Missouri-based institution
108 whose primary focus is science or technology research, to have a
109 significant physical presence in the district, and a description of the
110 educational resources that will be provided by such higher education
111 institution in the district, such as classrooms, curriculum, dedicated
112 faculty, graduate students, and defined partnerships with targeted
113 industry clusters, or a description of the defined partnerships with
114 targeted industry clusters that will be initiated by any research
115 institution, and how they are intended to promote, advance, or expand
116 targeted industry clusters in the state through the promotion or
117 advancement of science or technology;
- 118 (9) The base year amount of state sales tax revenues and the base
119 year number of full-time, part-time, or temporary employees within the
120 district;
- 121 (10) The estimated number of new jobs to be created by any
122 business in the district, listed by full-time, part-time, and temporary
123 positions;
- 124 (11) The estimated average hourly wage to be paid to all current
125 and new employees at the project site, listed by full-time, part-time, and
126 temporary positions;
- 127 (12) The estimate of MO-JFF revenues following implementation
128 of the projects;
- 129 (13) An affidavit that is signed by the developer or developers
130 attesting that the plan would not be reasonably anticipated to be
131 successful without the appropriation of MO-JFF revenues;
- 132 (14) The three-digit North American Industry Classification

133 System codes characterizing the plan and projects;

134 (15) A list of other community and economic benefits to result
135 from the project;

136 (16) A list of all development subsidies that any business
137 benefitting from public expenditures in the district has previously
138 received for the projects, and the name of any other granting body from
139 which such subsidies are sought;

140 (17) A list of all other public investments made or to be made by
141 this state or political subdivisions thereof to support infrastructure or
142 other needs generated by the projects;

143 (18) Documentation from a municipality describing the
144 municipality's public investment that has been made, or is anticipated,
145 to improve infrastructure outside the district as a result, or in support,
146 of development within the district;

147 (19) A statement as to whether the projects may reduce
148 employment at any other site within the state resulting from
149 automation, merger, acquisition, corporate restructuring, relocation,
150 or other business activity; and

151 (20) A detailed project or business plan by each Missouri-based
152 higher education institution and recognized Missouri-based institution
153 whose primary focus is science or technology research planning to
154 locate within the district, setting forth sufficient information to
155 demonstrate satisfaction of the requirements of this section.

156 3. No plan shall be adopted by a municipality without findings
157 that:

158 (1) The plan conforms to the comprehensive plan for the
159 development of the municipality as a whole;

160 (2) The estimated dates of completion of each project and
161 retirement of obligations incurred to finance each such project's costs
162 shall not be more than twenty-five years after the adoption of the
163 ordinance approving the relevant project, provided that no ordinance
164 approving a project shall be adopted later than ten years from the
165 adoption of the ordinance approving the plan under which such project
166 is authorized;

167 (3) A plan has been developed for relocation assistance for
168 businesses and residences;

169 (4) The amount of eligible costs, excluding financing costs,

170 estimated to be financed with MO-JFF revenues does not exceed fifty
171 percent of the plan's estimated total project costs, excluding financing
172 costs;

173 (5) Municipal funding has been pledged to one or more projects;

174 (6) There is a commitment and significant physical presence
175 planned in the district by a Missouri-based higher education
176 institution, including but not limited to universities, colleges, and
177 community colleges, or any recognized Missouri-based institution
178 whose primary focus is science or technology research, as part of the
179 plan, for such higher education institution to provide educational
180 resources such as classrooms, curriculum, dedicated faculty, graduate
181 students, and defined partnerships with targeted industry clusters, or
182 for such research institution to initiate partnerships with targeted
183 industry clusters, both of which must be intended to promote, advance,
184 or expand targeted industry clusters in the state through the promotion
185 or advancement of science or technology;

186 (7) If the proposed district is not fully contiguous, the proposed
187 district is sufficiently geographically cohesive to ensure that the
188 district will function as a fully contiguous district. Separation of real
189 property by any roadway, whether public or private, or any public
190 right-of-way, shall not disrupt the contiguous nature of such real
191 property for purposes of this section. Any otherwise noncontiguous
192 real property shall be deemed contiguous with the other real property
193 in the proposed district if the governing body determines that inclusion
194 of the noncontiguous real property would further the municipality's
195 goals in establishing the district;

196 (8) The estimated annual MO-JFF revenues to be generated by
197 each project are reasonable estimations.

198 4. Prior to adopting an ordinance establishing a district,
199 adopting a plan, or approving one or more projects, the governing body
200 of a municipality shall hold a public hearing at which all protests,
201 objections, comments, and evidence shall be heard. The hearing, for
202 which notice shall be given in the manner provided under subsection
203 5 of this section, may be continued to a later date without further
204 notice other than a motion to be entered upon the minutes fixing the
205 time and place of such subsequent hearing. Hearings with regard to a
206 district, plan, and project may be held simultaneously.

207 **5. (1) Notice of the public hearing required by subsection 4 of**
208 **this section shall include the following:**

209 **(a) The time and place of the public hearing;**

210 **(b) The general boundaries of the proposed district, by street**
211 **location, where possible;**

212 **(c) A statement that all interested persons shall be given an**
213 **opportunity to be heard;**

214 **(d) A description of the proposed plan or project and a location**
215 **and time where the entire proposal may be reviewed by any interested**
216 **party; and**

217 **(e) Such other matters as the governing body may deem**
218 **appropriate.**

219 **(2) Notice of public hearing required under subsection 4 of this**
220 **section shall be provided by:**

221 **(a) Publication, which shall be given at least twice, the first**
222 **publication to be not more than thirty days and the second publication**
223 **to be not more than ten days before the hearing, in a newspaper of**
224 **general circulation in the area of the proposed development; and**

225 **(b) Mailing, which shall be made by depositing such notice in the**
226 **United States mail by certified mail, addressed to the person or persons**
227 **in whose name the general taxes for the last preceding year were paid**
228 **on each lot, block, tract, or parcel of land lying within the proposed**
229 **district. Such notice shall be mailed not less than ten days before the**
230 **date set for the public hearing. In the event taxes for the last**
231 **preceding year were not paid, the notice shall also be sent to the**
232 **persons last listed on the tax rolls within the preceding three years as**
233 **the owners of such property. Notice by mailing shall also be given not**
234 **less than forty-five days before the date set for the public hearing to**
235 **the department of economic development, and in addition to the other**
236 **requirements under subdivision (1) of this subsection, the notice shall**
237 **include an invitation to submit comments to the municipality's**
238 **governing body concerning the subject matter of the hearing before the**
239 **date of the hearing.**

240 **6. After the public hearing, and up to six months following the**
241 **adoption of an ordinance establishing a district or approving a plan or**
242 **project, changes may be made to such district, plan, or project, without**
243 **a further hearing, if such changes do not enlarge the exterior**

244 boundaries of the district and do not substantially affect the general
245 land uses established in the plan or substantially change the nature of
246 the project, provided that notice of such changes shall be given by mail
247 to the department of economic development not less than ten days
248 before the adoption of the changes by ordinance.

249 7. Upon adoption of an ordinance approving a project, a
250 municipality may:

251 (1) Make and enter into all contracts necessary or incidental to
252 the implementation and furtherance of its plan or projects;

253 (2) Under a plan, subject to any constitutional limitations,
254 acquire by purchase, donation, lease, or as part of a project, own,
255 convey, lease, mortgage, or dispose of land and other property, real or
256 personal, or rights or interests therein, and grant or acquire licenses,
257 easements, and options with respect thereto, all in the manner and at
258 such price the municipality determines is reasonably necessary to
259 achieve the objectives of the plan. No conveyance, lease, mortgage,
260 disposition of land, or other property acquired by the municipality or
261 agreement relating to the development of the property shall be made
262 except upon the adoption of an ordinance by the governing body of the
263 municipality;

264 (3) Within a district, clear any land by demolition or removal of
265 existing buildings and structures;

266 (4) Within a district, renovate, rehabilitate, or construct any
267 structure or building;

268 (5) Install, repair, construct, reconstruct, or relocate streets,
269 utilities, and site improvements essential to the preparation of the
270 district for use in accordance with a plan;

271 (6) Within a district, fix, charge, and collect fees, rents, and other
272 charges for the use of any building or property owned or leased by it
273 or any part thereof, or facility therein;

274 (7) Accept grants, guarantees, and donations of property, labor,
275 or other things of value from a public or private source for use within
276 a district;

277 (8) Issue obligations, secured by all or any part of the funds and
278 deposited in the project's financing fund established under subsection
279 9 of this section to provide for eligible project costs. Such obligations,
280 when so issued, shall be retired in the manner provided in the

281 ordinance authorizing issuance of such obligations. In addition to
282 funds in, and to be deposited in, the project's financing fund, a
283 municipality may pledge a mortgage on part or all of the project area,
284 or any other security or other interest, to secure its
285 obligations. Obligations issued under this section may be issued in one
286 or more series bearing interest at such rate or rates as the issuing body
287 of the municipality shall determine by ordinance or resolution. Such
288 obligations shall bear such date or dates, and mature not more than
289 twenty-five years from issuance, be in such denomination, carry such
290 registration privileges, be executed in such manner, payable in such
291 medium of payment, at such place or places, contain such covenants,
292 terms, and conditions, and be subject to redemption as such ordinance
293 shall provide. Any such obligations issued may be sold at public or
294 private sale. No referendum approval of the electors shall be required
295 for issuance of obligations under this subsection. Obligations issued
296 under the provisions of this section shall not constitute an
297 indebtedness within the meaning of any constitutional, statutory, or
298 charter debt limitation or restriction;

299 (9) Incur eligible project costs and other project costs;

300 (10) Charge as eligible project costs the reasonable costs
301 incurred by its clerk or other official in administering projects;

302 (11) Establish by ordinance a development authority, consisting
303 of such persons as the governing body shall determine, which shall not
304 transact any business or exercise any powers until or unless the
305 governing body shall approve by ordinance the exercise of such power,
306 functions, and duties, but in no event shall such powers include the
307 power of eminent domain. The governing body may grant to a
308 development authority the power to issue obligations under this
309 section, alone or in conjunction with a municipality, according to terms
310 and limitations set forth by ordinance. If a development authority
311 already exists, a municipality may authorize such development
312 authority to issue obligations under this section and otherwise exercise
313 any powers that a municipality may grant to such authority.

314 8. (1) Following a municipality's approval of one or more
315 projects, the amount of MO-JFF revenues generated from within the
316 project area of such project shall be available for appropriation by the
317 general assembly from the general revenue fund to the department of

318 economic development for distribution to the treasurer or other
319 designated financial officer of the municipality. No transfer from the
320 general revenue fund to the department of economic development shall
321 be made unless an appropriation is made from the general revenue
322 fund for that purpose. No municipality shall commit any MO-JFF
323 revenues before such an appropriation. An initial appropriation of MO-
324 JFF revenues shall not be made or distributed by the department of
325 economic development to a municipality until the director of the
326 department of economic development or the director's designee has
327 certified the plan and project or projects. After such certification and
328 upon appropriation, the department of economic development shall
329 immediately distribute such appropriated amounts to the appropriate
330 municipality. The director of economic development or the director's
331 designee shall certify a plan and projects provided such plan and
332 projects comply with the requirements set forth under subsection 3 of
333 this section and:

334 (a) The plan and projects would result in a net benefit to the
335 state, with particular emphasis on such factors as the short and long
336 term potential for the creation of new jobs in the state, growth of state
337 tax revenues, strengthening the state's reputation as a hub of one or
338 more targeted industry clusters, advancement of the development of
339 science and technology industries in the state, and the potential to
340 leverage new federal funding for science and technology; and

341 (b) The amount of MO-JFF revenues projected in each year, in
342 combination with all other projects already certified under this
343 subsection, shall not exceed the annual aggregate cap on disbursement
344 of revenues set forth in subdivision (3) of this subsection in any given
345 year.

346 (2) At no time shall the annual amount of MO-JFF revenues
347 approved for disbursement by the department of economic development
348 for a particular project exceed the amount of MO-JFF revenues
349 projected in that particular year for such project in the plan; provided,
350 however, if in one or more prior years the amount of MO-JFF revenues
351 disbursed by the department of economic development for a particular
352 project is less than the amount projected for such project in the plan,
353 such cumulative shortfall of revenues shall be disbursed by the
354 department of revenue to the project in subsequent years to the extent

355 that such project generates MO-JFF revenues in excess of the amount
356 projected in the plan for those subsequent years, but only if the
357 additional amount of disbursement would not exceed the annual
358 aggregate cap set forth in subdivision (3) of this subsection.

359 (3) At no time shall the total annual amount of MO-JFF revenues
360 approved for disbursement by the department of economic development
361 for all projects combined in any year exceed the annual aggregate
362 cap. The "annual aggregate cap" shall be sixty million dollars during
363 the 2011 fiscal year and shall annually increase by ten percent over the
364 prior year for the next five years, and remain constant for all
365 subsequent years.

366 9. The treasurer or other designated financial officer of the
367 municipality shall deposit MO-JFF revenues received from the
368 department of economic development in a segregated fund known as a
369 "Missouri Jobs for the Future Projects Financing Fund". The state
370 treasurer shall be custodian of the fund. In accordance with sections
371 30.170 and 30.180, the state treasurer shall approve or disapprove
372 disbursement requests within thirty days of receiving such requests,
373 and shall approve any disbursement request that is consistent with the
374 applicable plan and project or projects. Upon appropriation, money in
375 the fund shall be used solely for the administration of this
376 section. Notwithstanding the provisions of section 33.080, any moneys
377 remaining in the fund at the end of the biennium shall not revert to the
378 credit of the general revenue fund. The state treasurer shall invest
379 moneys in the fund in the same manner as other funds are
380 invested. Any interest and moneys earned on such investments shall be
381 credited to the fund.

382 10. MO-JFF revenues deposited in the Missouri jobs for the
383 future projects financing fund established by the municipality under
384 subsection 9 of this section shall be used to pay for eligible project
385 costs, to provide reimbursement for eligible project costs incurred
386 either before, or after, the district is established under this section, and
387 to make payments on obligations the proceeds of which were used to
388 pay eligible project costs. MO-JFF revenues generated within one
389 project area may be used to pay for, or reimburse, eligible project costs
390 in any part of the district, or outside the district for the benefit of such
391 district, or make payments on obligations the proceeds of which were

392 used to pay for eligible project costs in any part of the district or
393 outside the district for the benefit of the district. MO-JFF revenues
394 shall only be used to finance the cost of land or improvements
395 described in this subsection if such land or improvements are owned,
396 at the time such costs are incurred, by a public entity, and any such
397 land or improvements subsequently sold, leased, or otherwise
398 transferred to a private individual or entity shall be sold, leased, or
399 otherwise transferred for no less than fair market value. For the
400 purposes of this subsection, "public entity" shall include, without
401 limitation, any Missouri-based private higher education institutions or
402 recognized Missouri-based institutions whose primary focus is science
403 or technology research, where such sale, lease, or transfer is in
404 furtherance of the component of a plan.

405 11. Following the initial appropriation of MO-JFF revenues
406 under subsection 8 of this section and continuing until termination of
407 the district, the municipality shall annually submit a report to the
408 department of economic development which shall provide an update of
409 the projects' timetables, status of municipal funding, and other funding
410 sources, the number of jobs created, the annual payroll, and the public
411 and private capital investment in the district.

412 12. This section shall not affect, in any way, the implementation
413 or continuation of any other type of public incentives, including tax
414 increment financing under sections 99.800 to 99.865, community
415 improvement districts under sections 67.1401 to 67.1571, and
416 transportation development districts under sections 238.200 to 238.280,
417 for any real property within or without the district; provided, however,
418 if some or all of the revenues that would be captured as MO-JFF
419 revenues within a particular project area under this section would
420 otherwise also be captured under any other public incentive program,
421 such revenues shall be:

422 (1) Exclusively captured as MO-JFF revenues, if the other
423 incentive program's approval to begin capturing such revenues did not
424 occur until after the certification of the relevant project; or

425 (2) Exclusively captured by such other incentive program and
426 not as MO-JFF revenues, when such other incentive program's approval
427 to begin capturing such revenues occurred prior to the certification of
428 the relevant project under the provisions of this section, but only until

429 such other incentive program's capture of such revenues terminates.

430 **13. The development of any project, appropriations of MO-JFF**
431 **revenues for such project, and retirement of obligations incurred to**
432 **finance such project shall not continue more than twenty-five years**
433 **from the date of a municipality's adoption of such project by ordinance;**
434 **provided that, no ordinance approving a project shall be adopted later**
435 **than ten years from the adoption of the ordinance approving the plan**
436 **under which such project is authorized. No district shall have the**
437 **power to acquire any real property by eminent domain. Any plan or**
438 **projects that are approved under this section shall be deemed to**
439 **promote the health, safety, and welfare of the public.**

440 **14. Eligible project costs may include, at the prerogative of a**
441 **municipality or the state, the portion of salaries and expenses of the**
442 **municipal government, the department of economic development, or the**
443 **department of revenue reasonably allocable to each project approved**
444 **for disbursements from the department of economic development for**
445 **the ongoing administrative functions associated with such project. For**
446 **municipalities, such amounts shall be recovered from MO-JFF revenues**
447 **deposited in the projects financing fund. For the state, such amounts**
448 **shall be recovered from MO-JFF revenues deposited with the**
449 **department of economic development under this section.**

450 **15. Ten years after the effective date of this section, the**
451 **department of economic development shall conduct a comprehensive**
452 **review of the implementation and performance of the provisions of this**
453 **section which shall include, in part, an analysis of the number of jobs**
454 **created, the payroll for such jobs, capital investment attracted, and**
455 **overall economic growth generated.**

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